SAN LUIS OBISPO COUNTY
DEPARTMENT OF PUBLIC WORKS
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TO: **Board of Supervisors**

FROM: **John Diodati, Administrative Services Officer II** JD

VIA: **Dean Benedix, Utilities Division Manager**
Paavo Ogren, Deputy Director of Public Works

DATE: **August 28, 2007**

SUBJECT: **Request to Approve a Resolution Preliminarily Approving the Assessment Engineer's Report, Setting a Date for the Public Hearing of Protests of the San Luis Obispo County Wastewater Assessment District No. 1, and Weekly Status Update for the Los Osos Wastewater Project**

Recommendation

It is our recommendation that your Honorable Board:

1. Approve the Resolution Preliminarily Approving the Engineer's Report and Setting the Date of the Public Hearing of Protests of the San Luis Obispo County Wastewater Assessment District No. 1, for October 23, 2007.

2. Review the two submitted sample ballots and approve staff's recommendation of the sample ballot with the property owner's name.

3. Instruct the Clerk of the Board to initiate ballot proceedings.

4. Accept the weekly project update from County Staff.

5. Receive public comment on issues related to the Los Osos Wastewater Project.

Discussion

On August 21, 2007 your Board approved two resolutions which initiated Proposition 218 proceedings. Your Board established the boundary of the San Luis Obispo County Wastewater Assessment District No. 1, and approved the Resolution of Intention, which set Craig Campbell, P.E. of the Wallace Group and Dean Benedix, P.E., Utilities Manager for the Public Works Department as the engineers of work and directed them to create an assessment engineer's report as required by Section 10204 of the Code and

supplemented by Section 4 of Article XIIID of the California Constitution. Their report is presented to you today, and you are being asked to preliminarily approve this engineer's report.

In the report the engineers establish the total general and special benefit to the properties which lie within the San Luis Obispo County Wastewater Assessment District No. 1 (Assessment District). The summary of their findings is as follows:

SUMMARY COST ESTIMATE

	(1) Total Estimated Cost for Build-out Condition	(2) Special Benefit for Developed Lots Only (Costs Covered in this Assessment Proceeding)
Collection System Components		
Lateral Component	$ 10,956,000.00	$ 9,869,372.64
Collector Component	52,341,045.00	44,621,635.16
Trunk Component	23,105,955.00	18,431,011.04
Subtotal	**$ 86,403,000.00**	**$ 72,922,018.84**
Treatment/Disposal Component		
Wastewater Treatment Facility	$ 27,639,000.00	$ 22,046,894.86
Effluent Disposal System	19,422,000.00	15,492,412.60
Treatment Facility Site	2,490,000.00	1,986,206.75
Subtotal	**$ 49,551,000.00**	**$ 39,525,514.21**
Common Component		
Engineering/Administration/Legal Costs	$ 16,000,000.00	$ 12,762,762.00
Permitting and Mitigation	2,490,000.00	1,986,204.84
Subtotal	**$ 18,490,000.00**	**$ 14,748,966.84**
Total Project Special Benefits Costs	**$ 154,444,000.00**	**$ 127,196,499.89**

On July 17, 2007 your Board chose to consider a second assessment proceeding or other financing sponsored by the County of San Luis Obispo for owners of undeveloped property. Therefore, these assessment proceedings are solely for levying the special benefit of this project on the property owners of developed properties within the Assessment District. The Assessment District does not include Bayview Heights or the Martin Tract, based on correspondence from the Regional Water Board allowing their exclusion – previously reviewed by your Board on August 21, 2007. Assessments are not proposed for properties within Monarch Grove based on a letter from the Monarch Grove Homeowners Association, which requests exclusion, and is attached to this Board item.

The sum of the special benefit and proposed assessment is $127,196,499.89. The special benefit is based on costs arising from the collection system, treatment and disposal facility/system and common component costs, such as engineering and environmental permitting and was established from the Fine Screening Report, which is attached to this Board item. A memo from Dean Benedix, P.E., Appendix "A" of the Engineer's Report, outlines the methodology of establishing the special benefit.

The allocation of the special benefit to parcels within the Assessment District is based on a formula which calculates the total special benefit at build out for each benefit unit, and then multiplies the cost per benefit unit by the number of benefit units for developed parcels. Benefit units are assigned to the various land uses as follows:

Residential Single Family and Residential Suburban (RSF & RS)

A parcel with an existing residence is assessed one (1) BU or one share in each of the five project components. Additional existing residences are also assessed one (1) BU.

Residential Multi-Family (RMF)

Improved parcels being used as Residential Multi-Family are assessed one (1) lateral component per property plus ¾ of one BU per apartment/condo for collector, trunk, treatment and disposal and common facilities. Less wastewater flow is expected from RMF parcels, thus the reduction in BU's from Single Family Residences. Improved parcels with an existing single residence are assessed one (1) BU.

Commercial (CR, CS, OP)

The County Land Use Ordinance permits a wide range of uses within these zones in particular, rendering an assessment based on land use impractical. For example, a commercial parcel may house a relatively low wastewater generating activity such as warehousing or a more intense user such as a restaurant or car wash.

To avoid conjecture regarding ultimate land use, commercial parcels being used as Commercial were assessed according to parcel size. Improved parcels up to 10,000 square feet were assessed the same as an occupied single family residence. Larger parcels are assessed at increasing increments of benefit units for each 10,000 square foot increment of land. For example, a 25,000 square foot lot is assessed at a full 2.50 BUs. In circumstances where the County Land Use Ordinance would permit the addition of a residential unit to the commercial use, the parcel size was still used as the basis for the assignment of benefit. Differences in commercial uses will be accounted for in varying monthly service charges.

Improved commercial parcels used for residential purposes are assessed the same as RSF or RMF parcels, based on existing use.

Open Space (OS)

These parcels are not developable by definition and, therefore, received no assessment.

Special cases for schools, condominiums and mobile home parks were considered in the allocation of special benefit. Their calculations were derived as follows:

Condominiums

Condominiums, although many times under separate ownership, represent special cases. Each unit has been assessed ¾ BU per unit in the same manner as apartments with the exception of the lateral component. In the case of condominiums, the common area has been assessed for a single lateral BU. The exception are condominium parcels in Monarch Grove, which are assessed zero (0) BUs (see explanation for Monarch Grove below).

Mobile Home Parks

Since mobile home spaces generate less wastewater than single family residences, they have been assessed ½ the rate of RSF housing. Each park has been assessed one lateral unit plus 0.5 BUs per space for each trunk, treatment and disposal, and common facility components.

Park Name	Assessment Number	Number of Spaces	Equivalent BUs
Morro Shores	2517	164	82.00
Daisy Hill	5221	139	69.50
Sea Oaks	5222	125	62.50
Sunny Oaks	6070	65	32.50
1259 2nd Street	0427	17	8.50

Schools

Schools have been assessed as special cases. There are three existing schools in the Assessment District. To determine the portion of the project special benefit costs each school is to bear, the anticipated wastewater flow from each school was considered. Based on wastewater load and flow factors, a total of 20.25 students per equivalent benefit unit (BU) was assigned. Therefore, each school has been assessed for one lateral component plus the number of equivalent BUs for each of the collector, trunk, treatment and disposal, and common facilities components based on the school's student population.

Your action of preliminarily approving the engineer's report will establish an assessment for each parcel within the Assessment Boundary. The amounts for each parcel can be found in the assessment roll contained in the engineer's report. The same resolution preliminarily approving the engineer's report will also set October 23, 2007 as the date of the public hearing on the proposed assessments and instruct the Clerk of the Board to mail ballots to all property owners within the Assessment District. The ballot and notice of the public

hearing are attached. These two items, plus Part VI of the engineer's report, are the items to be mailed to each property owner. John Diodati, an Administrative Services Officer with the Public Works Department, will have his phone number on the assessment ballot so property owners may contact him if they have any questions.

The Clerk's office will mail assessment ballots to property owners and will also be the office receiving mail and walk-in return ballots. These ballots will not be opened until after the public hearing on October 23. At this public hearing, your Board will receive all written and oral testimony in opposition and in favor of the proposed assessment from members of the public. During the public meeting property owners may submit ballots, withdraw their ballots, or ask for a new ballot to change their vote. The Clerk will be able to accept ballots up until the conclusion of the public hearing.

Following the close of the public hearing, the Clerk anticipates opening and sorting the ballots on two consecutive days. The actual date and time of both days will be noticed in The Tribune and Bay News and both days will be open to the public.

Assessment proceedings do not fall under the Elections Code which requires the use of a secret ballot. Instead, State law requires that the assessment ballots are treated as disclosable public records. There has been some concern in the community regarding this provision, and staff has worked with the Clerk's office, bond counsel and County Counsel for a satisfactory solution. Staff had originally thought a satisfactory solution would be to remove the names of the owner from the ballot. The ballot would still have to be treated as a disclosable public record, the ballot would still have to contain the APN number of the property and the ballot would still have to be signed, which means the identity of the owner could be easily revealed. Staff has concluded that our original satisfactory solution of removing the name of the owner from the ballot will cause too much confusion and not provide the secrecy desired by those concerned. The main source of confusion would be in the distribution of ballots. Many property owners will be receiving numerous ballots and will be unable to distribute them to those they share ownership with unless a name is on the ballot. Staff has attached a sample ballot with a space provided to print the owner's name, and staff suggests your Board approve this ballot.

Other Agency Involvement/Impact

County Counsel has reviewed the Resolution, which was initially prepared by the County's outside counsel for this project, Orrick, Herrington & Sutcliffe LLP. The County Clerk-Recorders office has been involved in the planning of the Proposition 218 ballot proceedings, as they have been instructed to administer the proceedings. The Auditor-Controller and Tax Collectors' offices were contacted prior to developing the Board items. The Monarch Grove Homeowners Association has expressed their opinion to be excluded from the current assessment proceedings since they are currently receiving service from a wastewater plant permitted by the Regional Water Board.

Financial Considerations

The proposed actions do not have any financial implications at this time. However, adopting the attached Resolution will result in Proposition 218 ballots to be sent to property owners, which will be used to determine if the community is willing to assess themselves so the County may proceed with the planning, design and construction of a wastewater facility.

Results

The proposed actions will initiate Proposition 218 ballot proceedings, which allow property owners within the proposed assessment boundary to express their support of, or opposition to, the County of San Luis Obispo continuing with a wastewater project as required under AB 2701.

Attachments: Resolution
Assessment Engineer's Report
Notice of Public Hearing
Assessment Ballots
Letter – Monarch Grove Homeowner's Association
Fine Screening report

File: CF 310.85.02

Reference: 07AUG28-BB-1

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